1   Amend 17 Cal. Code of Regs. section 100408 to read:

2   **§ 100408. Revenue Sharing.**

3   (a) A Grantee must share with the State of California a fraction of any Net Licensing

4   Revenue it receives under a License Agreement for a CIRM-funded Patented Invention as

5   follows:

6   (1) Subject to subdivision (a)(2) of this regulation, a Grantee must pay 25 percent of Net

7   Licensing Revenue in excess of $500,000 to the State of California for deposit into the State's

8   General Fund. The threshold amount of $500,000 (in the aggregate) shall be adjusted annually

9   by a multiple of a fraction, the denominator of which is the Consumer Price Index, All Urban

10   Consumers, All Items (San Francisco-Oakland-San Jose; 1982-84=100) as prepared by the

11   Bureau of Labor Statistics of the United States Department of Labor and published for the month

12   of December 2007, and the numerator of which is such Index published for the month in which

13   the Grantee accepts the Grant.

14   (2) If funding sources other than CIRM (including those of the Grantee) contributed to

15   the development of a CIRM-funded Patented Invention, then the return to the State of California

16   on Net Licensing Revenue in excess of the threshold amount described in subdivision (a)(1) of

17   this regulation shall be proportionate to the support provided by CIRM, as follows: The amount

18   of CIRM funding of the patented invention shall be divided by the total of funding provided by

19   all sources, and that fraction shall be multiplied by 25. That numeral is the percentage due to the

20   State of California of Net Licensing Revenue.

21   (b) A Grantee must share with the State of California a fraction of any Net Commercial

22   Revenue it receives from a self-commercialized product resulting from its CIRM-funded

23   Research (regardless of whether a CIRM-funded Patented Invention is involved) as follows:

1   (1) A Grantee must pay royalties to the State of California for deposit into the State's

2 General Fund on Net Commercial Revenue exceeding the threshold amount described in

3 subdivision (a)(1) of this regulation. Total payments under this subdivision (b)(1) shall not

4 exceed three times the total amount of the CIRM Grant or Grants. The precise rate of payback in

5 the form of a royalty shall be negotiated between the Grantee and CIRM, but in no event shall be

6 less than two (2) percent nor more than five (5) percent of the annual Net Commercial Revenue

7 from the invention, unless the product achieves blockbuster status, as provided in subdivisions

8 (b)(2) and (b)(3) below.

9   (2) If Net Commercial Revenue <u>from a self-commercialized product resulting from its</u>

10 <u>CIRM-funded Research</u> exceeds the milestone of $250 million per year ~~from a self-~~

11 ~~commercialized CIRM-funded Patented Invention~~, and then if Net Commercial Revenue exceeds

12 the milestone of $500 million per year <u>from a self-commercialized product resulting from its</u>

13 <u>CIRM-funded Research</u>~~from a self-commercialized CIRM-funded Patented Invention~~, then upon

14 the first occurrence of each of these milestones the Grantee will pay to the State of California a

15 one-time blockbuster payment of three times the total amount of the Grant.

16   (3) In addition to any amounts due under any other provision of this regulation, where a

17 CIRM-funded Patented Invention(s) is involved in the achievement of Net Commercial Revenue

18 realized by Grantee equivalent to or greater than $500 million in any year, and where CIRM

19 Grants amounting to more than $5 million (in the aggregate) were made in support of CIRM-

20 funded Research that contributed to the creation of Net Commercial Revenue, the Grantee will

21 pay the State of California one percent of Net Commercial Revenue in excess of $500 million for

22 the life of the patent.

1   Note: Authority cited: Article XXXV, California Constitution; Section 125290.40(j), Health and

2   Safety Code. Reference: Section 125290.30, Health and Safety Code.